

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KAREN D. McNEIL,

§

Plaintiff,

§

v.

§

CIVIL ACTION NO. H-06-2492

§

BMC SOFTWARE, INC.,

§

Defendant.

§

MEMORANDUM AND ORDER

At issue between Plaintiff and Defendant are documents that Plaintiff has obtained and now produced outside of the discovery process in this case. They are Bates labeled 371-407 (“the Documents”).

Defendant contends that the Documents are trade secrets within the meaning of Rule 507 of the Texas Rules of Evidence. Plaintiff denies this.

The Court agrees that the Documents do contain trade secrets within the meaning of Rule 507. They are also irrelevant to this case.

The Court therefore **ORDERS** that the Documents are not to be admitted, and are not to be referred to, in this case without a specific authorization from this Court.

The Court is, however, unaware of any jurisdiction it has to require the return or the destruction of the Documents, which appear altogether unrelated to the proceeding over which this Court does have jurisdiction. The Court would be willing to reconsider its position upon further briefing by the parties.

IT IS SO ORDERED.

SIGNED this 1st day of August, 2007.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES THIS ORDER SHALL
FORWARD A COPY OF IT TO EVERY OTHER PARTY AND AFFECTED NON-PARTY
EVEN THOUGH THEY MAY HAVE BEEN SENT ONE BY THE COURT